G. R. S. App. F. IX-4]

1937-9
~~194~~ ?

File No. 37-39

Previous References.
CS. 32-37-1-5
L R 713-28-1-2

(CS)

Serial Nos. 1-14

Later References.

PRESERVED

P-149
E

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 14

13

Part B for Aug 43.

SUBJECT.

Withdrawal of Execution of Co-operative Society decree by the Registrar of Co-operative Societies

Sl 14)

To

The Registrar of C.S

No. A.F. 53028 31/5/43

States that Govt are not in favour of encouraging the principles

I.P.R
4.10.43

1)

GENERAL AND REVENUE SECRETARIAT.

(b/s)

NOTES.

File No. 37-39

FILE HEADING.

Withdrawal of execution of Cooperative society decree by the Registrar of Cooperative Societies when the decree ~~[illegible]~~ is partially satisfied.

FROM The Registrar of Cooperative Societies Ludhiana

No. 3423 Dated 21-9-39 Received 25-9-39

Diary No. 1274 Enclos. one Spare copies — Serial No. 1

BRIEF ABSTRACT OF LETTER

Forward copy of letter from the President of the Central L. M. Bank re the withdrawal by the Registrar of a decree under execution with the ~~Deputy Commissioner~~ revenue authorities, on the partial satisfaction of the decree. and requests orders as to whether the Registrar may withdraw the execution at any time after it is sent to the Deputy Commissioner

NOTES AND ORDERS.

L.R. 713-25-2 yearly.

The file relating to the orders of 1930 is placed below for perusal. The question under consideration is whether the Registrar can withdraw a decree from the revenue authorities when it is once handed over to them for execution. This question has been discussed on a previous occasion in connection with the appeal of the City Coop. Bank Ludhiana and the opinions of both the Revenue Secy and the Legal Rem. Sec. were obtained. (Vide flags B & C).

b/s. 32-37 placed below

NOTES—First Sheet

2 ✓

127/42
AF

by File No. 37 of 193 9

General and Revenue Secretariat

2 ~~xxxx~~ The decision in that reference was that the Registrar cannot interfere in the affairs when once the decree is passed on the question to the revenue authorities submitted for orders

30/9/39 3. In this present case, the decree-holder-Society has requested the Registrar to withdraw the Ex: Proceedings. and the decree will be in force for 12 years. The President of the Society- the decree holder Society- has taken the responsibility on himself to recover the amount-decretal amount- within that period: How he would do that he has not explained as pointed out by the Registrar ~~perhaps~~, the judgment-debtor has undertaken probably to pay more towards the instalment.

Is it not only a question of the instalment due up to the end of 1938-39 ? ✓

4 The point now for consideration is whether the Registrar - the Court which awarded the decree - could refuse to withdraw the execution proceedings at the request of

Serial No.

of the decree holder Society.
and what would be the legal effect if the execution is proceeded with. The President of the decree holder Society has requested and stated that he would like to withdraw the execution for the present. It is not allowed to be pending with the Revenue authorities to whom it has been referred for execution.

5 The G.O of May 1930. does not perhaps apply to such cases as the present one. This is a final withdrawal. There may not arise an occasion to take any further execution proceedings at all.

6 As observed by the Registrar, there may be some risk for the recovery of the money if timely action is not taken within the Specified 12 years period. Whether the Revenue authorities can proceed with the execution

NOTE-Contn. Sheet.

4

1214/1647

File No. of 19 .

General and Revenue Secretariat.

Serial No.

and its legal effect if they proceed when the decree-holder does not want that has to be decided. The Law Secy may be consulted

Genl Secy 3/10/39

GENERAL SECTT. 3 OCT. NEW 2393

7 Please fwd copies of the correspondence referred to in the Provincial's letter dated 12th Sept 1939.

3/10 4/10.

8 Draft Letter for approval

4/10/39

9 Issue 5/10/39

TYPING SECTT. 5 OCT. 1939 GEN. & REV. SECTT.

Issued. No. AF. 1702. dt. 9.10.39. to Registrar Cl. 2. Calling for the copies of Correspondence Letter No 4361 dated 11-10-39 from the Registrar Bd. forwarding copies of the Letters called for.

10 The copies of the Correspondence referred above are laid for perusal. The question raised in the correspondence relates to an execution accusing one Gopalakrishnamma alias Lakshmi In this case the Receiver has, on the instructions of the Board, stayed the execution of further proceedings and got the records back The Principal of the Bank has quoted another instance of one Mr. Bhandaram Lakshmi

GEN. & REV. SECTT. 10 OCT. 1939 FOREST BRANCH.

1279 & 1547 & 1888 5

General and Revenue Secretariat. | File No. 39 of 19 39 | [App. F. III-2

Serial No.

If abbreviated information will be obtained as regards the disposal of this decree also for the sake of comparison with the reference under correspondence. Office submits for orders

AD 30/11 29/11/39 30/11

[illegible] 30/11

4. RF. 2004 dt. 2.11.39 To the Registrar of CS calls for a report on the action taken in respect of Dues of Mr. Chandavar Subba Rao.

GEN. & REV. SECTT. 9 NOV. 1939 REVENUE & FOREST BRANCH.

5 Letter No 5071 dated 8/11/39 from the Registrar forwarding a report on the question of the recovery of dues of Mr. Chandavar Subba Rao

12) It is seen from the reports of the Registrar that the executive proceedings have been ordered to be kept in abeyance and the record withdrawn in the case of Messrs Chandavar Subbarao (Flag D.E.F) and Shiffli Ramanatha (Flag G.H.K) It is not known how the personal cases stands on a different footing. The Registrar is of opinion that even the request for a consolidation of the proceedings and permission to file a fresh application on the same bond must be held to be legally unacceptable. It seems desirable to obtain the opinion of the Law Department on this question. Submit

AD 14/11/39 13) The point for orders is whether the President of the Land Mortgage Bank is in

NOTE—Contn. Sheet

6

1977

28 File No. of 19 | General and Revenue Secretariat.

Serial No.

order when he requested the Registrar to withdraw the execution proceedings. This amounts to a request by the plaintiff to dismiss the execution application. He has the right to apply once again within the period of 12 years.

11) The G.O of May 1930 cannot be applied in such instances Law Secy may be consulted

Genl Secy 15/11

GENERAL SECRETARY. 16 NOV. 1930 3191

12) The point at issue is whether a decree, the execution of which has been entrusted to the Revenue Dept by the Registrar of Cooperative Societies, can be withdrawn when execution proceedings are being taken, on the score that the judgement-debtor or defaulter has paid some money towards part satisfaction of the decree reserving the right to apply later on for the execution of the unsatisfied portion, if any, of the decree. Please consult the Law Dept as to whether this can be legally permitted & whether any precedents to meet the

3248/p039 184V 7

Serial No.

cases & the land are existing in the C. P. C Administration, such a Concession, if permitted, will interfere very much with the course of ~~the~~ execution & increase the work of the Rev Dept. There will be no incentive for the parties to pay the instalments regularly as they can by delay repayment & ask for such ~~this~~. Concession, when all the formalities have been gone through, involving considerable time & the execution proceedings are well on their way the interests of the servants are likely to suffer in the Land sum & execution proceedings will become legally uncertain & prolonged.

(1) Asst Secy. Law
W/c for opinion

20/11

20/11

(2) One Mr Narasappa alias Subbarayappa owed some money to the Land Mortgage Bank. He failed to pay up his instalments the L. M. Bank files an application begging Register recovered to ~~get~~ his dues against Mr Narasappa. The Register after due enquiry, deemed to suit, & forwarded the decree to the C. C. for execution.

Law
BBR
20.11.39

Rev. 900/1939
21-11-39

NOTE—Contn. Sheet

8

File No. of 19

General and Revenue Secretariat.

Serial No.

The Rev Court put up the properties for the J. D. for Sale, but before the Sale was held, the J. D. paid up the amount due by the last day & so the President of the D. H. Bank moved the Register to withdraw the Execution Proceedings from the Rev. Court & to keep the Execution in abeyance.

1) The Question is can the Register do so legally?

2) This Question was discussed at length in the file below, & first after due consideration have passed an order which is marked "H"

3) Next from through the Section all the Rules must be C.P. Code but I find that as only under Rule 16 IX(c) that the Register is empowered to order Stay of Execution when there is an appeal pls see Sec 43 (1) (5). In the like manner he may Stay execution, & there is an application before him to set aside the ex parte order. In no other case, can the Register Stay execution, & the decree is transferred by the Rev. Court for execution.

4) Like procedure is adopted in Civil Courts also

5) If a Court which passed a decree

Serial No.

Can Stay execution in the transferee Court, if there is a Stay order from the appellate Court, or if there is an application to set aside the ex-parte decree.

14) In 1.9.R. 1925 under Rule 28 it is held that once a decree is transferred under Sec 39 CPC. the Court which passed the decree ceases to have jurisdiction till it receives a certificate under S. 41 of the C.P. Code", from the transferee Court. In the same manner the Registrar of the Co. Courts ceases to have jurisdiction over the decree, once the transfer of execution to Rev. Court

5) The Law Secretary Madras Bank, that is the Court can the decree Holder, can intimate the Rev Court (and the D.C. if it has received any money from the J. debtors) that it may release the D.C. to stay the execution of the decree for some time. This can be done, for, the D.C. has power to stay execution of the decree. There is no need for the Bank to approach the Registrar of Co. Societies for this purpose.

16) But if the decree is to be executed for some time to come, then the decree Holder Bank may make such a request to the D.C, and the D.C. may make a report to that effect to the Registrar for the execution withdrawn from his Court. There is nothing in the Co. Act. or rules under that Act, prevents the D.C. to accept such a procedure

NOTE—Contn. Sheet

10

File No. 3245/P of 19

General and Revenue Secretariat.

Serial No.

& any event it seems, that the Registrar cannot of his own motion set in execution of his decree withdraw from the Rev. Court, for, after he transfers the decree to the D.C., it is the D.C. who has to control work-execution of decree, and it is he who can send back the decree to the Court of the Registrar for sufficient reasons.

Law Secretary. 3
25/12/39

SECY. LAW DEPT. 4353 25 DEC. 1939 GOVT. OF MYSORE

2) There is no question of clash of jurisdiction between the Revenue & Cooperative officers. The Bank is in the position of the decree holder. The Registrar corresponds to the Court passing the decree and directing or transferring the decree for execution. The D.C. is the authority or agency for execution of decree & corresponds to Court executing decree.

3) The Registrar can withdraw a decree from execution in the D.C's Court. When the Bank receives money in part satisfaction & gives time to the JDr, the executing Court has to give effect to the agreement & stay execution. The first principle of execution is that it is at the instance of the DHr that

Wilt renewal of the execution of Cooperative Society decree

General and Revenue Secretariat. | File No. 37 of 1939 | [App. F. III-2

Serial No.

Execution proceeds. If the Dfr wants execution to stay, he may apply directly to the D.C or may apply through the Registrar. If the Dfr wants stay of execution the D.C. cannot refuse

Member) 27/12

3
27/12

29) If appn the legal opinion favourable will be communicated to the Registrar. Administratively this will be very disadvantageous, as explained in para 15 of the note but this cannot be helped

2nd Member) 27/3/40

30) 1st Mr 28/3. 27/3/40

28/3

31) Dft Ltr to Advt. It is for consideration whether the file may be sent to the First Member of Board also as this is a matter of the execution of Bd. decrees by the Revenue Department.

29/3/40 32) 1st Member 29/3

33) 31/3/40 1/4 Ans

28 DEC. 1939

MAR 30 1940

OFFICE OF THE SECOND MEMBER OF COUNCIL 27 MAR 1940 No. 8319

NOTE—Contn. Sheet

12

1888 / 60169

AF

File No. 37 of 1937

General and Revenue Secretariat.

Serial No.

3rd) If approved the draft letter will now be issued. Sd/ 1/4/40

3rd) Letter approved. Sd/ 2/4

Prop from C

TYPING SECTION 2 APR 1940 GEN. & LTT.

Letter AF. 5325 dated 4.4.40 To the Registrar of Civil Courts Advising the opinion as expressed in Law Secretariat on the question of stay of execution at the instance of the decree holder. 6

Sd/ 15/4/40

Memo AF 5326 dated 4-4-40 to the Revenue Commissioner forwarding copy of the letter for information

Memo No AF 5327-35 dated 4-4-40 to the Deputy Commissioners forwarding copies of the above for information.

C.S. & REV. SECTT. 18 APR. 1940 AGRI. & FOREST BRANCH.

Letter No 11900/C8 dated 15/4/40 from the Registrar of Civil Courts stating that the present order works as a great hardship to Co-operative societies in the recovery of the amounts and opining that the enforcement of the present order will be prejudicial to the interests of the societies.

3rd) The Registrar represents that the acceptance of the view taken by Govt would be disastrous to the interests of the Dept. He says that in the cases in which the decisions are passed by the Registrar, it is the Registrar that moves for execution of the decree holder society being given only the option of going to a Civil Court for execution and that the further proceedings are to be governed by the Land Revenue Code and the Rules and not

6969/39 1888 ∫4169 13)

Serial No.

by the Civil Procedure Code. In the second para of his letter the Registrar brings to the notice of Govt the difficulties experienced by the Depts in the proper recovery of amounts from the debtors of Societies and the Central Financing Banks. It may be stated here that the Cooperative Societies Act and the Rules contain special provisions prescribing a special summary procedure for the recovery of disputes and the execution of decisions. It may be that objection is taken to the Cooperative Societies to such remedies in civil courts also, ~~But~~ the fact that there is a special legislation for the speedy and easy disposal of disputes and executions, seems to lead to the opinion that the ~~[illegible]~~ laws and procedure of the civil courts is not universally applicable to the disputes of cooperative Societies though there is some provision ~~[illegible]~~ in the special legislation, for the application of the C.P.C to a certain extent. The opinion of the Law Secretariat may be obtained on the points now raised by the Registrar and with regard to the opinion already expressed in Paras 27-28 above. Submit for orders

A

GENERAL SECRETARY
23 APR 1940
6.5.38

21/4/40 22/4 37) A. may be done
Genl: Secy

38)
Law Asst: Secy. W[illegible]
4/5 Regr may discuss with him

25/5 W 27/5 27/5

NOTE—Contn. Sheet.

A179

(16)

File No. of 193

General and Revenue Secretariat.

Serial No.

39) The Registrar of Co: Societies is of opinion, that the present order of Govt, in respect of execution of Co: Society decree being Stayed at the instance of the decree-Holder Co. Society, is not in their effects the best interests of the Co-operative movement & which supersedes the procedure prescribed by Govt in their order No R.7300-7309/L.R 7/3-28-2 dated 10.5.30.

40) Govt R 16 VIII the Registrar may send the decree for execution either to the D.C. or to the Civil Court at the request of the decree Holder.

41) When it is sent to the D.C. then as per Rule 16(VIII) the D.C. shall impose the decree as if it were a demand for arrears of Land Revenue. Here is no dispute about this procedure.

42) The main point-at issue is, if the Registrar send the decree of a Society to the D.C. for execution, then can execution of that decree be Stayed if the decree Holder Co: Society wants its decree in execution, to be Stayed for reasons which the Society thinks to be valid?

43) My answer is, that if a decree Holder Society wants the execution to be Stayed, then the execution can be Stayed, & neither the D.C. or the Registrar can refuse Stay of execution. Even executions for arrears of Land Revenue are Stayed if the Revenue authorities when the authorities are of opinion that the request of the defaulter

Serial No.

is reasonable. Then Reg: authorities do stay execution of such decree, or the failure of the defaulter, then does it stand to reason stay of execution when he seeks. Whether refuses for stay of execution?

46) Naturally the dean Kolar Co. Society is so keen about the realisation of its decretal amounts; as the Society authorities the contention that & Surety because there will be a number of such cases pending in the Dept. & so rule, should not be more, does or holds good for a moment Certainly, the Registrar has powers under the Co: Society Act, to deal with the managing members of the Society; & they do not act in the best interests of the Society, & it is found that the managing members of a Society are helping the defaulters, & granting time for reasons which are not sufficient; then the Registrar can take action under the law to remove them, but neither he nor the D.C. can refuse stay of Execution; when the dean Kolar Society asks for stay

45) Hence the Rule in Question is

NOTE—Contn. Sheet.

16)

6969

File No. of 194 .

General and Revenue Secretariat.

Serial No.

perfectly valid in law, & it does not in any way affect the best interests of the Society.

46) Further, the G.O. referred to by the Registrar (Flagler H.) also says that the D.C. can grant time & stay execution, if the circumstances are sufficient ground to stay execution at the instance of the defaulter. When the D.C. can stay execution at the instance of the defaulter, then can it be said, with reason that stay of execution has to be refused, if the decree holder asks for stay ?

47) I submit that the rule as it is forseen is perfectly valid, & ought to stand

Law Secretary) 3
9/5/40

48) No doubt the G.O of 1930 seems to support the ~~contra~~ suggestion of the Registrar of Co-operative Societies. The G.O of 1940 takes a more liberal view and represents the legal position more accurately. There does not seem to be

7714
9/5/40

6905/621
4169 AF
17)

Serial No.

any necessity to reconsider the G.O. of 1940.

II Member)

Hqrs 23.5.40.

Orders of the II Member on Page 13 above

"Regr may discuss with me

Secy K.V.R. 25/5
" J.A.G. 27/5
" R.A.B. 29/5

50) Draft Secy for above

28/5/40

29/5

8 AF. 6666 . Dr. 31. 5. 40. The Registrar Coop Societies

States that the question may be discussed by him with the 2nd Member of Council.

51) It is not known whether the Registrar had discussed the matter with the Secretary member of Council. Secy with a draft D.O.

28/6

52) Secretary)

28/6

The Registrar states that he has not done so & that he will do so sometime after the L.C. session is over.

28/6

28/6

53)

It is not known whether the question has been discussed with the II Member. Secy for orders whether the reply may issue

53) Secretary)

24/7

53) May be sent up after a week, by which time the Registrar will return from Poona

24/7

28/6

GENERAL SECRETARY 28 JUNE 1940 661

GENERAL SECRETARY 22 JULY 1940 628

NOTE—Contn. Sheet.

GENERAL SECRETARY 22 JULY 1940

28 JUNE 1940 REVENUE & AGRICULTURE FOREST BRANCH.

-OFFICE OF THE SECOND MEMBER OF COUNCIL. 23 MAY 1940 No. A.179

TYPING SECTION 29 MAY 1940 GEN. SECTT.

4 | 6 | 697

CS File No. of 194 .

General and Revenue Secretariat.

Serial No.

58) The Secretary Committee has returned the papers. Submitted for orders whether the case may be closed.

29/7/40

59) Perused)

31/7

60) Done

31/7

1/8

Issued vide AF 802 dated 2/8/40

GENERAL SECRETARIAT
31 JULY 1940
874

TYPING SECTT.
1 AUG. 1940
GEN. & REV. SECTT.

Submitted A

13/8/40

D.O. Letter No 113/CS. dated the 26th July 40 from the Registrar stating that the question was discussed with the Secretary Committee on 20-8-1940

A

GEN. & REV. SECTT.
14 AUG. 1940
REVN. & FOREST BRANCH.

(a) The file may now be ~~added to the~~ ~~of the~~ Secretary Committee for orders. Submitted

6/9/40

61) Perused)

13/9

63) Bill may be sent to Secretary Committee

13/9

GENERAL SECRETARIAT
13 SEP. 1940
1640

64) It is not known what was the ~~proceedings~~ discussion on 20.8.40, referred to above or A

In view of the opinions expressed in paras 46 & 48 of the note supra, the Registrar of Cooperative Societies may perhaps be intimated that ~~the~~ Govt do not consider necessary

Serial No.	
	Flag S. GENERAL SECRETARY. 12 SEP. 1941 1394 To modify the instructions issued in their letter dated 4.4.1940. Otherwise the Registrar may be further consulted in the matter (Genl Secy) 11/9/41
	65) Please ascertain what the result of discussion was & whether the Registrar's recommendation 66) No action has been taken as this for one year, which is not satisfactory 12/9 67) Draft 12/9
	68 Draft letter submitted 15/9/41 69) Done 15/9
	TYPING SECTT. 1941
10	At 1430 of 19.9.41 to the Regr. Vcs. calls for certain information
	Secy A to 23/9/41
11	Letter No 4091/Cs. dated the 10th Oct 1941 from the Registrar of Cs. stating that the [illegible] of withdrawal [illegible]/9 execution of the Cs. decree may be [illegible] only in the Registry of Cs. or the Dy or Asst Registrars and not in the Commissioners Courts
	GEN. & REV. SECTT. 25 SEP. 1941 COPYING BRANCH.

NOTE:—Continue on Sheet.

Serial No.

70) It is submitted that the question of withdrawal of execution of C.S. decrees involves the amendment of either Section 43C or Rule 16(vi) of the Rules under the C.P.C. Act. In connection with the amendment of the Rule 16(vii) the Law Secretary is of opinion that as the Section 43C is proposed to be amended, the amendment of the rule may be taken after the passing of the Act.

Legislative file 2943/39 C.S. 19-39

It is therefore for orders whether, in the case of the present question involving the amendment of Section 43C, this file may be referred to the Legislative Section for incorporating the necessary amendments in the proposed bill, or in case the proposal involves the amendment of Rule 16(vii) the question may be taken up after the Section 43C emerges out of the Legislature in a final form. and a comprehensive amendment of Rule 16(vii) may be considered. Law Section may perhaps be consulted

12/11/41 12/11

71) What is the exact form in which Sec 43 (c) is proposed to be amended the wording of Section in the form to be amended may be stated

15-4

72) An extract of Section 43C (1) as at present and as proposed to be amended is placed below for reference. Two new sections 43 (1) (1)

Dy A

J 1342

Serial No.

and 43N re the reviews of amount due to a society are also proposed to be added Extract of these two sections are also placed along with the extract of section 43C Vide

Ad 39 11/41 11/12

73) The Registrar reports that he represented to the Hon Member of Council (Finance & Revenue) the consequence of empowering the decree Holder societies to withdraw the decree from execution and applying to the DCo for stay of execution. He says that the discretion of withdrawing the decree from execution should be vested only in the Registrar, Dy Registrar or Asst Registrar only. If this view is accepted, the instructions issued in G.O. dated 4.4.1940 have to be suitably modified, as under that G.O, the decree holder can directly apply to the Deputy Commn for stay of execution. The Registrar probably fears that the decree holder societies are likely to abuse this power, by which consequent effects detrimental to the interests of the Societies In the present state of working of several Rural Societies, such fear can not be said to be not well-founded. The modification suggested by the Registrar may perhaps be approved in consultation with the Law Secretary in view of their previous note in this connection. (Genl Secy)

15/12

Pages 27, 29 & pages 39 to 48 Supra

GENERAL SECRETARY. 15 DEC. 1941 3760

NOTE Continued sheet.

CS File No. 37 of 1942 | General and Revenue Secretariat

Serial No.

LF 2943/42

27 JULY 1942 GEN. &

7a) Mr Reyntjes states that he has explained the consequences of empowering the Committee of Management of Co-operative Societies to stay execution of decrees, to the Hon Member of Council. Please ascertain what the consequences will exactly be & whether there is anything in the Co-operative Societies Act & Rules, according to which, the consequences cannot be prevented or whether under the provisions of the Act & the Rules, any abuse of powers, if vested in the Managing Committee of Societies, cannot be effectively checked or action cannot be taken against such Committees, if the exercise of powers by them results in loss to the Societies.

19/7

20/7

b) Draft Let for issue

22/7/42

c) Done

25/7

Letter No AF 658 dated 28/7/42 to the Registrar by calling for certain information by the Societies to prevent the abuse of powers in respect of the withdrawal of execution of Co. decrees in the course of the proceedings

12

1342/101 A-7 53161

General and Revenue Secretariat | CS File No. 37 of 1939. | [App. F. III—2

Serial No. 13

Letter No 1021. dated 3-3-43 from the Registrar explaining the circumstances under which the withdrawal of executive orders may not be left to the discretion of the Court Bailiff and the need to withdraw a decree from execution

77) Submitted for orders with reference to Paragraph 76

GENERAL S 16 MAR 1943 6057

STAFF 8/3/43 MW

78) Genl. Secy 10/3/43

79) The position as to the withdrawal of executive proceedings has been explained clearly in the letter to the Registrar dated 4-4-40. (Flag Z). The Registrar now proposes that any Executive Officer should have the power to order the withdrawal but not even the Dy or Asstt Registrars. The only justification for changing the procedure would be the misuse of the power by subordinate officers. No such instances have been brought to notice. which does not justify the change. The acceptance of the modification proposed would cause considerable dissatisfaction to parties & lead to unnecessary correspondence. This would be looked upon as a further infringement of the Corporation's rights and might

NOTE—Contn Sheet.

WD 03594—GPB—30,000—18-7-35

CS File No. 1 37 of 1939 | General and Revenue Secretariat

Serial No.

possibly make the societies feel a sense of irresponsibility ~~in the matter~~ take less interest in the recovery of overdues. There will be bound to be cases in which payments cannot be made as soon as ~~the~~ proceedings are started & to delay the withdrawal of proceedings by taking away the power of societies to grant time & move for withdrawal of proceedings in deserving cases would take away perhaps the incentive to repay & in the case of defaulters & to speed up recoveries in the case of ~~the~~ penalty societies.

SD There does not seem to be sufficient justification for the change proposed.

Minister for ... 17/3

JMD
23.3.43

24/3
Jones

Jones
26/3/43

Offr Subs to advise
26/3/43 GE Secy)

30/3
Jones
30/3/43

OFFICE OF THE MINISTER FOR EDUCATION
Date 22-3-43
No. 5194

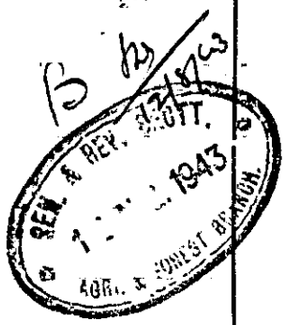
GENERAL SECRETARIAT
27 MAR. 1943
6999

TYPING SECTION
30 MAR. 1943
GEN. SECRETARIAT.

14 - The Registrar CS

A.7. 5502 dt 31-3-43.

States that ~~after Careful Consideration~~, Govt. are not in favour of modifying the principles laid down in this Office letter No. A.7. 5325/CS. 37-39-6 dated 4th April 40. -



CS 37-38-1

No. 3423 C. S. 27-9

GOVERNMENT OF MYSORE

DEPARTMENT OF CO-OPERATION

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.
Camp Tiptur

Telegraphic Address:
"CO-OPERT"
Bangalore.

Dated ~~Bangalore~~, 19th Septr., 1939
21 SA.

GEN. & REV. SECTT. 25 SEP. 1939 FOREST BRANCH

FROM

M. ABDUL HUKH, ESQ., B.A.,
Registrar of Co-operative Societies in Mysore,
BANGALORE.

To

J. Appaji Gowda, Esq., B.A.(Hons),
General Secretary to Government,
Bangalore.

GENERAL SECRETARY 21 SEP. 1939

~~Sir,~~

I have the honour to state that the Mysore Central Co-operative Land Mortgage Bank, Ltd., Bangalore City, filed an application under Section 60 of the Mysore Co-operative Societies' Act VII of 1918 against one Mr. Veerabhadrayya in the Tumkur Taluk, for the recovery of the amount due by him to the Bank in respect of a loan granted to him by the Bank in September 1930 repayable in 30 annual instalments and an order was passed on 9-5-36 for the realisation of the amount by proceeding against the mortgaged properties and the same was sent for execution to the Deputy Commissioner, Tumkur District and in the course of execution of the said order, the party paid the instalment due to the Bank, under the terms of the original bond up to and inclusive of the year 1938-39 and prayed that the Bank may grant him permission to pay the amount in annual instalments as per terms of the document whereupon the President of the Bank requested me to arrange for the stay of execution proceedings and the withdrawal of the records from the Revenue Department with the option to the Bank to apply for execution afresh when the party defaulted again.

2. I pointed out that the grant of instalments to the party according to the terms of the bond would mean the keeping alive of the decree for twenty one years more, which is not possible, as the maximum period within which a decree should be executed is twelve years from the date of date of decree. In reply the President has stated that the decree would not be kept alive beyond the statutory

period of twelve years, though he has not explained how this would be done if his intention is to grant the party permission to pay the future instalments in accordance with the terms of the bonds.

3. To get over the dfficulty, I suggested to the Bank that it may treat the decree as fully satisfied and get a fresh document executed by the party for the balance due. The Bank has, in two other cases, sanctioned fresh loans and obtained consolidated documents from the parties for the aggregate loan amounts inclusive of the old loan but now when a suggestion is made by me that a new bond for the balance outstanding may be taken and the old loan treated as discharged, the President is of opinion that this is not in keeping with the principle underlying the grant of loans by the Bank. A copy of his Note is enclosed for the information of Government.

4. My suggestion is not acceptable to the Bank, and the President desires that the decree should be withdrawn from execution with option to the Bank to apply for execution at any time. The execution of decrees relating to the claims of Co-operative Societies or orders having the force of such decrees, through the Revenue Agency is governed by Rule 16(Clause (vii) of the Mysore Co -operative Societies Rules and Government Order No: R.7300-7309/L.R.713-28-2 dated 10th May 1930. It has been laid down in the said order of Government that when once the Registrar "transfers the decision to the Deputy Commissioner for execution, the Registrar ceases to have jurisdiction over the case" I think that the spirit of the Government order is to the effect that the only case in which the Registrar or the plaintiff society can interfere and stop execution is when the amount of the decree is fully realised before actual execution by the Revenue Agency. If it is conceded that the Registrar can withdraw the decree from execution and send it again for execution after a time, the very object of the Government order would be frustrated The same principle has I think to be followed in the execution of orders under Section 60, as an application for execution by the

Bank is not contemplated therein .

5. I request therefore that clear instructions may be given to me as to whether the Registrar may at any time withdraw from execution orders passed, under Section 60 of the Mysore Co-operative Societies' Act, and transmitted to the Deputy Commissioners for sale of mortgaged properties and send them again for execution, on the application of the Bank.

I have the honour to be,
Sir,
Your most obedient servant,

REGISTRAR

MEMO No.S.I.172/Enc.1 file dated 12th/14th September 1939 from the President, The Mysore Central Co-operative Land Mortgage Bank, Ltd., Bangalore.

========

Retransmitted with compliments.

I note below the points raised by the Personal Assistant to the Registrar and the Deputy Registrar in their notes and my opinion on each point.

(1) According to the Government Order No.7300-7309/L.R.713-28-2 dated 10-5-1930, the Co-operative Department has no authority to stay proceedings once the decree is sent to the Revenue Department for execution.

This point had been raised previously in the Registrar's letter No.399-C.S. dated 19-7-1937 on the Bank applying for a stay of execution proceedings relating to Application No.12/35-36 filed against Mr. Ghipli Naranappa and his sons. I invite kind reference to my letter in reply thereto (No.D.O.S.I.440 dated 12-3-1938 - copy enclosed for ready reference) in which I expressed my views on the scope of the said Government order. As I have explained therein, the Government Order does not affect the powers of the Registrar to withdraw any decree of his from the Revenue Department and hold its execution in abeyance. This view was then accepted by the Registrar the decree was called back from the Deputy Commissioner and the Bank was permitted also to apply for execution again whenever it felt a necessity therefor(vide Registrar's letter No.7615-16/C.S.dated 24-3-1938 - copy enclosed). It is therefore surprising that the same point is once again raised in the present case, in which the Bank has clearly applied for a stay of execution proceedings with the option to the Bank to apply therefor again in the event of future defaults on the part of the loan grantee.

(2) The next point raised is that it is doubtful if the decree can be kept alive for 21 years more in the present case, the loan having been granted in 1930 (repayable in 30 years).

The Bank has no desire to keep alive the decree for more than 12 years which is the period of limitation prescribed by law for its execution. The Bank will take care to see that the full amount of the loan is recovered or that the decree is executed finally before the expiry of the above period.

(3)

(3) To obviate these difficulties, it has been suggested in the note that the Bank may get a fresh bond from the loan grantee for the balance due repayable in the remaining period, i.e., 21 years in the present case.

The procedure suggested amounts to the grant of a fresh loan by the Bank to a member to discharge his prior indebtedness to the Bank itself. I am afraid that this will not be in keeping with the principle underlying the grant of loans by the Bank or with the bye-laws 3 and 43 of the Bank. If, however, the Registrar considers - that such a procedure may be adopted, the byelaws will have to be suitably amended for the purpose, for which the sanction of the - General Body should be obtained.

(4) Another suggestion made in the note is that the Bank may purchase the properties in the execution sale and lease them out to the Judgment-debtor and reconvey the properties to him any time on his full repayment of the decretal amount.

I consider this suggestion as impracticable as also objection able on principle. In view of the fact that the Bank loans are - spread over a period ranging from 15 to 30 years, the Bank cannot, for obvious reasons, undertake the responsibility of purchasing the mortgaged properties and managing them for such a long period on behalf of the defaulting members, nor is it its business to do so.

My recommendation to recall the decree from the Revenue Department whenever the judgment-debtor pays up all arrears of his instalments as per terms of his bond is made solely in the interests of the indebted members, whose relief is the sole object of the Land Mortgage Bank Scheme and who are liable to be deprived of their properties and to be thoroughly ruined, if their lands are sold in - execution of the decrees against them, except when such a step is found to be unavoidable for the recovery of the decretal amount. While the procedure suggested by me is not opposed to the Government Order of 1930, it would help the Bank in realising its dues and the Judgment-debtor in retaining his properties.

Sd.- K.R.Srinivasiengar,
President,
Mysore Central Co-operative Land Mortgage.-
********** Bank,Ltd.,

For Registrar

Appendix F G—1]

SUBJECT... .....

.....

.....

Diary No. of letter replied to.. .....

General and Revenue Secretariat

( )

the *193* .

Date of issue 9-10-39

Signed by..... M. H. Nair

List of enclosures.... .....

Copied by... .....

Examined by.....

Section Ld

File No. 37-39

Serial No. 2.

No. A 71702

To The Registrar CS

Sir Adverting to your letter No 3423 dated 21-9-39 requesting instructions re the interpretation of the order for the withdrawal of decrees and executions, I am directed to request you to ~~kindly~~ forward copies of the Correspondence referred to in the letter/dated 12/14-9-39 from the Secretary to the President of the Central L.M. Bank addressed to you.

I have etc

5/10/39

for Secretary

GOVERNMENT OF MYSORE. 1647 CS 37-39-3.

No. 4361 C.S. Reg 4

Telegraphic Address: "CO-OPERT" Bangalore

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE,

Dated Bangalore, 11th October *1939.*

FROM

M. ABDUL HUKH, ESQ., B.A.,

Registrar of Co-operative Societies in Mysore,
Bangalore.

GENERAL SECRETARIAT 11 OCT. 1939

To

J. Appaji Gowda, Esq., B.A., (Hons),
Secretary to the Government of Mysore,
General Department, Bangalore.

Sir,

As desired in your letter No.A.F.1702/C.S.37-39-2 dated 9th October 1939, I have the honour to forward herewith a copy of the Note by the Personal Assistant and the Deputy Registrar and also copies of letter No.S.I.440 dated 12th March 1938 from the President of the Bank addressed to me and of letter No.7615/C.S. dated 24th March 1938 from me to the Deputy Commissioner, Shimoga District, referred to in the President's Memo dated 12th/14th September 1939. Copy of letter No.S.I.603 dated 16th August 1939 from the President is also enclosed.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar of Co-operative Societies
for Registrar on leave

L.S.10/10.

D.O.letter No.S.I.440 dated 12-3-1938 from the President, Mysore Central Co-operative Land Mortgage Bank,Ltd., Bangalore City, to the Registrar of Co-operative Societies in Mysore,Bangalore.

==========

With reference to correspondence ending with your letter No. 5139 C.S.dated 3-1-38 stating that under G.O.No.R.7300-7309/L.R. 713-28-2 dated 10-5-1930, the officers of your Department are precluded from interfering with the decisions when once they are transferred to the Revenue Department for execution, and that you cannot interfere to stay the execution proceedings of the order passed in R.C.S. L.M.Appln.No.12/35-36 against Mr.Chipli Naranappa alias Subraya, I write to state that, as I understand the Government Order, it refers to interference with execution proceedings when the execution is pending with the Revenue Department, and it does not take away your powers as the Court by which the decree was passed to withdraw the file from the Revenue Department and hold the execution in abeyance as was done in the case of Mr.Chandravara Subba Rao - Appln.No.16/35-36 on your file. Kind reference is invited to Rule 28 (Order XXI) under the first schedule of the Code of Civil Procedure under which any order of the Court by which the decree was passed, in relation to the execution of such decree, shall be binding upon the court to which the decree was sent for execution. The Government Order referred to above only precludes interference with the actual execution when it is pending with the Revenue Department which is responsible for its disposal, and I do not think that there can be any objection on the part of the Revenue Department to your withdrawing the records from their file.

The case, under reference, is one richly deserving of the concession prayed for, as the party has, at great personal sacrifice, paid up all arrears of instalments upto date, and has also promised to pay the current year's instalment falling due on 30th April 1938 before the due date. He was granted a loan of Rs.2,400/ in May 1930 and the balance of principal now outstanding is - Rs.2,105-14-5. The security is said to be well maintained and has become stronger as the principal of the loan has been reduced by about Rs.300/-. It may also be expected that as he has been taught a lesson, he will not default again in the payment of instal-

ments

P.T.O.

instalments, as it might result in his losing his property. As the sale of his lands have been notified to take place on the 31st instant, I request you to be so good as to pass very early orders holding the execution proceedings in abeyance. If you still feel unable to comply with this request, I request you to kindly let me know your decision in this respect sufficiently early so that I may make arrangements for bidding for the lands on behalf of the Bank, if necessary:

****

" Copy "

for Registrar.

Letter No.7615/C.S.dated 24-3-1938 from the Registrar of Co-operative Societies in Mysore, Bangalore, to the Deputy Commissioner, Shimoga District, Shimoga.

==========

In continuation of this office No.6049/C.S.dated 26-1-1937 requesting you to arrange for the recovery of the decretal - amount due under R.C.S. L.M.Application No.12/35-36 against Mr.Chipli Naranappa alias Subbaraya of Padavagodu village, I have the honour to state that the President of the Mysore Central Co-operative Land Mortgage Bank, Bangalore, intimates in his No.S.I.440 dated 12-3-1938 that the arrears of instalments together with up-to-date interest due have been received in full and requests for the stay of execution proceedings for the present.

In these circumstances the execution records may be arranged to be returned to this office for being filed for the present.

****

" Copy "

for Registrar.

Letter No.S.I.103 dated 16th August 1939 from the President, the Mysore Central Co-operative Land Mortgage Bank,Ltd.,Bangalore to the Registrar of Co-operative Societies in Mysore, Bangalore.

==========

I have the honour to state that the lands mortgaged by Mr. Veerabhadriah alias Appajiah and others of Makanahalli, Tumkur Taluk, counter-petitioners in Appln.No.11 of 35-36 had been notified for sale on 29-7-1939 in execution of the decree passed by you on the application under Section 60 of the Mysore Co-operative Societies Act VII of 1918, filed by the Bank. Mr. Veerabhadriah alias Appajiah has paid up before the sale the full amount of arrears of instalments due by him upto the end of 1938-39 and prayed that the loan may be kept alive and that the future instalments may be recovered according to the terms of the bond executed by him.

I therefore request you to be so good as to arrange for the stay of the execution proceedings and the withdrawal of the records from the Revenue Department with the option to the Bank to apply for the execution proceedings being ordered in the event of future defaults on the part of the loan grantees.

****

" Copy "

For Registrar.

Note by the Personal Assistant.

Reference:-

Letter No.S.I.103 dated 16th August 1939 from the President, Land Mortgage Bank, recommending that the execution proceedings instituted against Veerabhadriah may be withdrawn and he permitted to pay the future instalments in accordance with the terms of the bond.

==========

1. Application was filed by the Bank under Section 60 of the Act and order was passed as follows on 9-5-1936.

"Time is given for the payment of Rs.384-12-2 before the 20th June 1936. If they pay at least this amount, the Bank will be requested to give time to pay the current year's instalments till the next harvest in view of the heavy fall in the price of jaggory but if they fail to pay even this amount before the date fixed above, the properties will be brought to sale....."

The party failed to pay any amount before 20-6-1936. The order was sent for execution on 8-8-36. He paid Rs.200/- on 1-12-36. Deputy Commissioner, Tumkur, has been reminded to expedite execution on 7-8-37 and 30-6-39. Now the President proposes withdrawal of the execution proceedings with the option to the Bank to renew execution proceedings at any time. The Bank had all along pressed for execution. Now there is a change as he has paid the instalments up-to-date. The bond was executed in 1930 and is for 30 years. Whether the decree can be kept alive for 21 more years as desired by the Bank is a point for orders.

2. To me the better course appears to be to obtain a fresh document from the party for the balance now due and make it repayable in 21 annual instalments. This will not be opposed to byelaw No.46 either. The loan may be treated as a loan through the Tumkur Land Mortgage C.S. instead of a direct loan.

The Deputy Registrar may perhaps be consulted in the matter.

Note by the Deputy Registrar.

3. Under ordinary Civil Law, a decree will be executed only

only on the application of the decree-holder and it is open to the decree-holder to grant time to the judgment-debtor on receipts of part payments of the decretal amounts. But in a Co-operative Society this option has been taken away from the decree-holder societies and under a Government order, the Co-operative Department has no authority either to stay proceedings once a decree has been sent for execution to the Revenue authorities. Here not only was the order sent for execution to the Deputy Commissioner over three year ago but two reminders have also been issued to him pressing for execution. Thus I do not think that this office can now interfere and stay the proceedings.

4. Further on merits of the case also, I agree with the Personal Assistant that stay of execution is not justifiable. In the first instance the order is definite that if a sum of Rs.384-12-2 is not paid before 20th June 1936, the mortgaged properties should be brought to sale. The party having failed to make the payment, the other part of the order has to be enforced and I do not think, it is open in law to revise the order now. The judgment-debtor appears to be a habitual defaulter and it is with a good deal of pressure on the part of the Bank, personal exertion of the Departmental Inspectors and the hanging threat of sale that he has been making some small payments.

5. If the Bank wants that the judgment-debtor should be given further chances to retain the properties, I think the best thing to do under the circumstances is for the Bank to purchase the properties in the execution sales (it is most unlikely that there would be any other bidders), lease them to the judgment-debtor and reconvey the properties to him any time on his full payment of the decretal amount.

Sd.- K.Subba Rao,
29-8-39.

****

" Copies "

for Registrar.

Appendix F G—1]

SUBJECT.....

.....

.....

Section 65

File No. 37-39

Serial No. 4

Diary No. of letter replied to.....

No. A F/20004

To The Registrar, C.S.

Sir

General and Revenue Secretariat

( )

the *193* .

Date of issue 2-11-39

Signed by Mr. A.N. Murthy

List of enclosures.....

Copied by.....

Examined by.....

According to the correspondence ending with your letter No 4361 dated 11-10-39 re the withdrawal of execution of the decree obtained by Mr Veeraraghavaya in the Tumkur Taluk in respect of the debt to the L.M. Bank, I am directed to request you to kindly send for the information of Govt a report on the action taken in respect of the decree of Mr. Chandavar Subbarao (Appeal No 16/35-36 on the file of the Registrar) referred to in the letter dated 12-3-38 from the President of the Central L.M. Bank

I have etc

for Secretary

WD 0563—GPB—30,000—6-1-39

C8 37-39-5

GOVERNMENT OF MYSORE

No. 5071 C. S. Ex47

DEPARTMENT OF CO-OPERATION

Telegraphic Address
"CO-OPERT"
Bangalore.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES
IN MYSORE,

Dated Bangalore, 8-11 November *193*9.

GOVT. 9 NOV. 1939 AGRI. & FOREST BRANCH.

FROM

M. ABDUL HUKH, ESQ., B.A.,
Registrar of Co-operative Societies in Mysore,
BANGALORE.

GENERAL SECRETARY 9 NOV. 1939

To J. Appaji Gowda, Esq., B.A., (Hons),
Secretary to the Government of Mysore,
General Department, Bangalore.

Sir,

As desired in your letter No.A.F.2004/C.S.37-39-4 dated 2nd November 1939 calling for a report of action taken in the case against Chandravara Subba Rao (Application No.16/35-36 on the file of the Registrar of Co-operative Societies), I have the honour to forward herewith the entire records connected with the said case and to state that the Bank in its letter No.S.I.258 dated 25th November 1936 requested that the decree passed against the party as also the subsequent proceedings taken in execution thereof may be cancelled and the Bank allowed to withdraw the application filed against him without prejudice to its making a fresh application again in the event of its being found necessary to do so by his defaulting in the regular payment of his instalments in future. The then Registrar ordered thereon as follows:-

"This raises a legal issue. If this decree is withdrawn, will there be cause of action on the same bond? Pending decision, ask the Deputy Commissioner to stay execution." Accordingly the Deputy Commissioner was requested to keep the execution proceedings in abeyance pending further communication from this office and to retu[illegible] the records. But the legal issue has not been solved. It may kindly be seen that this case stands [illegible] slightly different footing in that the Bank had asked for a cancellation of all the proceedings already taken and permission for filing a fresh application on the same bond and not keeping alive the decree already passed for a long period without taking any action in the interval. I am of opinion that

P.T.O.

that even this request for a cancellation of all the proceedings and for permission to file a fresh application under Section 60 of the Act on the same bond is not legally acceptable.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar.

L.S.6/11.

Appendix F G—1]

SUBJECT.....

.....

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Section 65

File No. 37-39

Serial No. 6

No. A 75326/Records

To The Registrar of Bd.

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 193 .

Date of issue.....

Signed by.....

Sir,

Adverting to the correspondence ending with your letter No. 5071/C. dated 8-11-39 in the matter of the withdrawal from execution of the cooperative society decree sent to the Revenue Department, if the decree holder society or bank receives payment of the dues from the principal debtor and asks for postponement, I am directed to state that there is no question of clash of jurisdiction between the revenue and cooperative officers. The Bank is in the position of the decree holder. The Registrar corresponds to the Court passing the decree and directing or transferring the decree for execution. The Deputy

List of enclosures.....

Copied by.....

Examined by.....

Commissioner is the authority or agency for execution of the decree and corresponds to the court executing the decree.

The Registrar can withdraw a decree from execution in the court of the Deputy Commissioner. When the Bank or the Society receives money in part satisfaction and gives time to the judgment debtor the executing court has to give effect to the agreement and stay execution. The first principle of execution is that it is at the instance of the decree holder that execution proceeds. If the decree holder wants execution to stay he may apply directly to the Deputy Commissioner or he may apply through the Registrar. If the decree holder wants stay of execution, the Deputy Commissioner cannot refuse.

The records received with your letter under acknowledgement herewith.

Thanking you,

Yours faithfully,

Memo No. A 75326. Dt 4/4/40.

Copy of the above is forwarded with

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

Compliments to the Revenue Commissioner is known for information

B.O

for secretary

Memo A7 6-326-34 Dt 4/4

Copies of the above are forwarded with Compliments to the Deputy Commissioners of Districts for information.

B O

for secretary

Copies to Revenue Branch

for

C.S. 37-39-7.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.

Dated Bangalore, 15/16 April 1940.

No. 11900 e8.

4169

From

M.Abdul Hukh,Esq.,B.A.,
Registrar of Co-operative Societies
in Mysore, Bangalore.

To

GENERAL SECRETARIAT
15 APR. 1940.

J.Appaji Gowda,Esq.,B.A.,(Hons),
General Secretary to the Government
of Mysore, Bangalore.

C.S. 37,

With reference to the orders of Government conveyed in your letter No.A.F.5325/C.S.37-39-6 dated 4th April 1940 observing that "if the decree-holder wants execution to stay, he may apply directly to the Deputy Commissioner or he may apply through the Registrar" and that "if the decree-holder wants stay of execution, the Deputy Commissioner cannot refuse", I have the honour to state that the present orders of Government supersede the procedure prescribed by Government in their order No.R.7300-7309/L.R.713-28-2 dated 10th May 1930. Under the existing Rules, (Rule 16(vii)) after the decision is sent for execution to the Deputy Commissioner, he has to enforce it, as if it were a demand for arrears of Land Revenue and therefore it follows that the procedure in execution is regulated by the provisions of the Land Revenue Code and the Rules thereunder.

The analogy of the Civil Court which passes the decree or which executes the decrees cannot, I think, be strictly applied to the decrees of the Co-operative Societies which are sent for execution to the Revenue Department. In the case of decrees or orders passed by Civil Courts, an application for execution has to be made by the decree-holder whereas in the case of the awards granted by the Arbitrators or decisions passed by the Registrar, it is the Registrar that has to move for their execution. The decree-holder society has the option of taking up execution proceedings in the Civil Court. If it so chooses, it can then enjoy all the privileges and concessions which the Rules under the Civil Procedure Code provide for the execution of decrees. But if the society fails to choose that option,

P.T.O.

option, it cannot in fairness, obtain any concessions not contemplated in the Land Revenue Code and the Rules thereunder.

The number of Co-operative Societies decisions under execution in the Revenue Department is already very heavy and the grant of the privilege of the stay of execution to the societies, contemplated under the recent orders of Government under advertance, will surely have the effect of increasing the pendency of the decrees in the Revenue Department to unmanageable proportions. I may be permitted to bring to the kind notice of Government that the order of May 1930 was passed to prevent the evil which was then in existence viz., stay of execution of decrees at the instance of parties through the Officers of the - Department of Co-operation. According to the present orders, the societies themselves may apply to the Decree Executing Officers for stay of execution and they are bound to respect the wishes of the societies and stay execution. The complaint is almost universal that there is considerable delay and trouble in getting decrees executed through the Revenue Department and that the position of the co-operative institutions is being adversely affected by their inability to - realise the outstandings promptly. The Committees of Management of societies particularly in the rural areas have not yet understood properly their rights and responsibilities and this is reflected in the bad condition of the societies and the heavy accumulation of overdues in the Apex and Central Banks. It is with great difficulty that disputes are got filed and if this power of stay of execution is - granted, all the labour will be a waste, as the Committees will take advantage of it to stay execution without any idea of the consequences I am therefore of opinion that the privilege of stay of execution of the Awards and Decisions transferred to the Revenue Department for execution, proposed to be given to the societies on the analogy of the Civil Courts, is, while meeting a popular demand, likely to be -- injurious to the general stability of the Movement and more so of the Financing Institutions. It is no doubt true that if the committee of any society request, stay of execution on insufficient grounds and the interests of the society are jeopardised thereby, I can take action against them under Section 38-A.of the Mysore Co-operative Societies' Act, but the mischief will have been done before the remedy is applied

As

As the question is one of very great importance affecting the best interests of the Co-operative Movement, I feel it to be my bounden duty to place my further views in the matter before Government - before issuing Circular instructions to the societies.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar.

L.S.13/4.

Appendix F G—1]

SUBJECT.....

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Section 65

File No. 37-39

Serial No. 8

Diary No. of letter replied to.....

No. A/76666

To The Rector q C.S

General and Revenue Secretariat

( )

the *19* .

Sir

Date of issue..... 21-5-40 .....

Signed by ..... D.N. Rao .....

Adverting to the correspondence ending with your letter No 11900/C1 dated 15-4-40 re the withdrawal of execution of proceedings by the Rector q C.S. at the instance of the above holder of ~~title~~ deed, I am directed to state that the question may be discussed by you with the Secretary Committee

List of enclosures.....

I have etc

29/5/40

Copied by .....

for Secretary

Examined by .....

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. A 16666 / CS 37-39-8

Bangalore, Dated, 21st May 1940

From

The General Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Registrar of Co-operative Societies in Mysore,
Bangalore.

Sir,

Adverting to the correspondence ending with your letter No.11900/C.S.dated 15th April 1940 regarding the withdrawal of execution of proceedings by the Registrar of Co-operative Societies at the instance of the decree holder etc, I am directed to state that the question may be discussed by you with the Second Member of Council.

I have the honour to be,
Sir,
Your most obedient servant,

For General Secretary to Government.

mk.2

GOVERNMENT OF MYSORE.

C9-37-39-9

M. ABDUL HUKH, Esq., B.A.

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.

D. O. No. 113 &

Dated Bangalore, 16 August 1940.

GENERAL SECRETARY 26 AUG. 1940

GEN. SECT. 27 AUG. 1940 AGRI. & FOREST BRANCH.

Dear Mr. Appaji Gowda,

With reference to your D.O.No.A.F.802/C.S. 37-39 dated 2nd August 1940, I write to state that I discussed the question relating to the withdrawal of execution proceedings, with the Second Member of Council on Tuesday the 20th August 1940.

Yours sincerely,

J.Appaji Gowda,Esq.,B.A.,(Hons),
General Secretary to the Government
of Mysore, Bangalore.

It is submitted that the main file was taken for disposal and has not been received back. You should have asked for it. It is sent herewith. 31/8.

31/8

Application for Commutation of pension under terms of Government Order No. Fl. 71-120 S. & A. 1-27-1 dated 4th July 1927.

FORM "A"

I.....desire to commute a portion of my*.....pension of Rs.....As.....Ps..... a month payable from.....After careful consideration, I am convinced that it will be to the distinct and permanent advantage of myself and my family to apply, as I am resolved to do, the commuted value in the manner detailed in the separate assigned statement I have attached hereto. I also certify that I have correctly answered each and all of the questions below:—

Signature.....

Place..... *Designation*.....

Date..... *Address*.....

*Here state, class of pension, *e. g.*, Superannuation, Retiring, Invalid or Compensation.

N B.—1. In the absence of a definite purpose, no portion of the pension can be commuted.

2. The grounds for believing that distinct and permanent advantage will be secured should be clearly noted in this statement.

QUESTIONS	ANSWERS.
1. What is the date of your birth?	
2. How much of your pension do you wish to commute?	
3. Have you any debts or liabilities? Give particulars.	
4. Have you a wife?	
Name the members of your family dependent on you with their respective ages.	
5. What was your monthly income from all sources during the past year? Give particulars.	
6. Do you suffer from any complaint likely to shorten life? If so, state its nature.	
7. When were you retired? What is the number of the Pension Payment Order.	
8. Name the treasury where the pension is now being drawn.	
9. If the pension is not chargeable wholly to State Funds, state the amounts chargeable to different funds as mentioned in the pension Payment Order.	
10. Whether any portion of your pension has already been commuted or whether any previous application for commutation preferred by you was rejected on medical or other grounds?	

Place.....

Date..... *Signature*.....

WD 01654—GPB—2,000—11-4-29.

Appendix F G—1]

SUBJECT.....

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Diary No. of letter replied to..... .....

General and Revenue Secretariat

( )

the *193* .

Date of issue 19-9-41

Signed by

List of enclosures.....

Copied by.....

Examined by.....

Section G.S.

File No. 37-39

Serial No. 10

No. A-4/1430

To The Registrar g/Cs.

Sir

I am directed to invite reference to the correspondence ending with your D.O. letter No. 113/Cs. dated 26-8-40 stating that the question of the procedure to be followed in the winding up/execution of Cooperative Society decrees, was discussed by you with the Secretary Member g/Council on 20-8-40, and to request you to kindly forward a note on the result of the discussion that took place, and also to enclose therewith your recommendations I have etc

for Secretary

WD 0563—GPB—30,000—6-1-39

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat.

No. A 7 12420 / CS 37-39-10

Dated, Bangalore 19 September 1941.

FROM

The Secretary to the Government of His Highness the Maharaja of Mysore.

General Department.

To

The Registrar of Co-operative Societies
in Mysore, B a n g a l o r e.

Sir,

I am directed to invite reference to the correspondence ending with your D.O. letter No.113/C.S. dated 26th August 1940 stating that the question re: the withdrawal of the proceedings relating to the execution of Co-operative Society decrees was discussed by you with the Second Member of Council on 20th August 1940, and to request you to kindly forward a note on the result of the discussions that took plac and also to enquire whether you press your recommendations.

I have the honour to be,
Sir,
Your most obedient servant.

for Secretary to Government,
General Department.

BSN/2.

No. 4091 C.S. 10/10/41

GOVERNMENT OF MYSORE.

1342 A-7.20 wcd

DEPARTMENT OF CO-OPERATION

Telegraphic Address "CO-OPERT" Bangalore.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE,

Dated Bangalore, ... October. *194* 1

CS 37-39-11

FROM

M. ABDUL HUKH, ESQ., B.A.,
Registrar of Co-operative Societies in Mysore,
BANGALORE.

To

J. Appaji Gowda, Esqr., B.A., (Hons),
General Secretary to Government of
Mysore, B a n g a l o r e.

GEN. & REV. SECTT. JUDL. & FOREST BRANCH.

GENERAL SECRETARIAT 11 OCT. 19 CS

Sir,

With reference to your letter No.A.F.1430/C.S. 37-39-10 dated 19th September 1941, regarding the withdrawal of the proceedings relating to execution of Co-operative Societies decrees, I have the honour to state that I represented to the Member of council the consequences of empowering the committees of management of decree holder societies to stay execution of the decrees held by them on the analogy of the practice obtaining in the Civil Courts and requested that the discretion of withdrawing the decrees from execution or staying execution may be vested only in the Registrar or the concerned Assistant or Deputy Registrar and not in the decree holder Societies themselves.

In this connection I also brought to the notice of the Member how the present Rule 16 (vii) of the Mysore Co-operative Societies Rules governing execution of Co-operative Societies' decrees and awards is not quite in keeping with section 43-C of the Act and that it should be amended on the lines indicated in my letter No.7922 C.S. dated 22-1-1940.

This point is dealt with in the Limitation file No 2943/39-40 Law Dept 23/9/41

I have the honour to be,
Sir,
Your most obedient servant,

Registrar.

jsp 8/10.

Appendix F G—1]

SUBJECT.....

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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *19* .

Date of issue 28-7-42

Signed by .....

List of enclosures.....

Copied by .....

Examined by .....

Section bs

File No. 37-39

Serial No. 12

No. A 7658

To The Registrar of Cs.

Sir

With reference to the Correspondence ending with your letter No 4091/cs. dated 10-10-41 re the withdrawal of proceedings relating to the execution of b.s. deeds, I am directed to state that, it has been stated, in your letter under reference that the Consequences of empowering the Committees of Management by deeds under seales to stay execution of decrees etc. were explained by you to the then Member of Council.

I am to request you to kindly

explain in detail what the consequences will exactly be and whether there is anything in the Cooperative Societies Act + Rules according to which the consequences cannot be prevented or whether under the provisions of the Act & the rules any abuse of powers, if vested in the managing committee of societies, cannot be effectively checked or action cannot be taken against such committee if the exercise of the powers by them results in loss to the societies

Thanking

Yours faithfully

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat,

No. A 7 658 / RS. 37-39-12

Dated Bangalore, 28-7-42

FROM

The Secretary to the Government of His Highness the Maharaja of Mysore,
General Department.

To The Registrar of Co-operative Societies in Mysore,

Bangalore.

Sir,

With reference to the correspondence ending with your letter No.4091/C.S. dated the 10th October 1941, regarding the withdrawal of proceedings relating to the execution of Co-operative Societies' decrees, I am directed to state that it has been stated, in your letter under advertence, that the consequences of empowering the Committees of management by decree holder societies to stay execution of decrees etc., were explained by you to the then Member of Council.

I am to request you to kindly explain in detail what the consequences will exactly be and whether there is anything in the Co-operative Societies Act and Rules according to which the consequences cannot be prevented or whether under the provision of the Act or the rules any abuse of powers, if vested in the managing Committee of Societies, cannot be effectively checked or taken against such committees, if the exercise of the powers by them results in loss to the societies.

I have the honour to be,
Sir,
Your most obedient servant,

for Secretary to Government,
General Department.

K.M.R.2.

C8.37-39-13

3161
A7

C. F. No. 45]

GOVERNMENT OF MYSORE

Tele gram / phone

No. 10211
Encls. nil.

OFFICE OF
The Registrar of Co-operative Societies in Mysore, Bangalore.

Date 3rd March 1943.

To

The Secretary to Government
of Mysore, General Department,
Bangalore.

GENERAL SECRETARY. 3 MAR. 1943

- 5 MAR. 1943

Sir,

With reference to correspondence ending with your letter No.A.F 658/C S.37-39-12 dated 28-7-42 regarding the withdrawal of proceedings relating to the execution of Co-operative Societies' decrees, I have the honour to state as follows:-

The latest Order of Government on this question (A.F.5325/C.S. 37-39-6 dated 4th April 1940) authorises the Registrar to withdraw a decree from execution in the Court of the Deputy Commissioner. It also authorises the society (decree holder) to grant time to the judgment-debtor and ask the Deputy Commissioner to stay execution and the Deputy Commissioner is bound to stay execution in such cases.

In this office letter No.11960C.S. dated 15-4-1940, it has been pointed out that the committees of management of societies, particularly in the rural areas have not yet understood properly their rights and responsibilities and this is reflected in the unsatisfactory condition of the societies and the heavy accumulation of overdues in the Apex and Central Banks. It is with not ~~alike~~ a little difficulty that disputes are got filed against the persistent defaulters to enable the societies to recover their overdue outstandings and if the societies should have the power to grant time to the judgment debtors and if on their requisitions the Deputy Commissioners (decree executing authorities) should stay execution proceedings, the trouble and expense involved in obtaining the decrees would become a waste and the position of societies in respect of the overdues would not improve.

P.T.O

improve.

In the circumstances, I think that in the interests of the movement it is necessary to modify the order of April 1940 above referred to and empower only the Registrar (and not the Deputy and the Asst. Registrars) to withdraw a decree from execution in the Court of the Deputy Commissioner.

I have the honour to be,
Sir,
Your most obedient servant,

V. Subba Rao
Registrar.

jsp.2/3.

Appendix F. G.—1]

SUBJECT.....

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Section bs

File No. 37-39

Serial No. 14

Diary No. of letter replied to.....

No. A.F. 5302.

To

General and Revenue Secretariat

( )

the *194* .

The Registrar bs

Sir

Date of issue 31 Mar 43

With reference to the correspondence ending with your letter No 10211 dated the 3rd March 1943, in the matter of withdrawal of proceedings during the execution of cooperative societies, I am directed to state that after careful consideration Govt are not in favour of modifying ~~see no justification to modify~~ the principles laid down in this office letter No A.F 5325/7 bs. 37-35-6 dated the 4th April 1940.

Signed by Jean H.M.S.

List of enclosures.....

Nil

Copied by.....

31/3/43

I have etc

Examined by.....

bs

Secretary